



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,526	01/26/2001	Freeland Glen Young III	52493.000133	4921

7590

07/14/2004

Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006-1109

EXAMINER


KALINOWSKI, ALEXANDER G

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/769,526	Applicant(s) YOUNG ET AL.	
	Examiner Alexander Kalinowski	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-18 are presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the instant claims fail to recite the use of any type of technology (e.g. computer system) within the recited steps of the claimed method of managing agents' commissions. The recited steps constitute an idea on how to process and display agent's commission data.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case the claimed method recites steps for creating a managing agents' commissions.

Although the claimed invention produces a useful, concrete and tangible result, since the claimed invention as a whole is not within the technological arts, as explained above, claims 1-6 are deemed to be directed to non statutory subject matter. The Examiner suggests adding language to the body of the independent claims that indicates the steps are carried out by the use of technology (i.e. computer, data processor).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 7, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Younger et al., Pub. No. 2002/0082971 (hereinafter Younger).

Art Unit: 3626

As to claims 1, 7, and 13, Younger discloses A method for enabling interactive access to and verification of agent commission information, said method comprising the steps of:

receiving agent identifying information and agent commission information (paragraphs 25 and 29);

analyzing and sorting the received agent identifying information and agent commission information (paragraphs 25, 29, 32);

saving the agent identifying information and the agent commission information (paragraph 29);

providing an interactive display of the agent identifying information and the agent commission information (Fig. 4);

providing interactive access to a display of detailed agent identifying information (Fig. 4 and 7); and

providing interactive access to a display of detailed agent commission information (Fig. 5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3626

6. Claims 2-6, 8-12, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Younger in view of Examiner's use of Official Notice.

As to claims 2, 8 and 14, Younger discloses The method of claim 1, wherein said agent identifying information comprises:

a writing code (agent ID number)(paragraph 34);

Younger does not explicitly disclose

a name;

an address; and

a telephone number.

However, the Examiner takes official notice that it was well known in the insurance arts to use agent identifying information that included name, address, and telephone number. The motivation was to provide additional means insuring that the correct agent as identified. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned features within Younger for the motivation stated above.

As to claims 3, 9, and 15. Younger discloses The method of claim 2, wherein said detailed agent commission information comprises:

policy information; and

commission detail information (Fig. 5 and Fig. 6).

As to claims 4, 10, and 16, Younger discloses The method of claim 3, wherein said policy information comprises:

Art Unit: 3626

a policy number (Fig. 6);
a client name (customer) (Fig. 4);
a product name (Fig. 4);
a company name (Fig. 9);
and an issue date (Fig. 4).

As to claims 5, 11, and 17, Younger discloses The method of claim 4, wherein said commission detail information comprises:

an estimated commission processing date for a commission (Fig. 4);
a face amount of a policy (Fig. 4);
a premium for a policy (Fig. 4);
a mode for the premium of a policy (Fig. 4); and
an issue age of a policy (Fig. 4)

As to claims 6, 12, and 18, Younger discloses The method of claim 4, wherein said commission detail information further comprises:

a split percentage of a policy (Fig. 4);
a commissionable amount of a policy (Fig. 4);
a commissionable rate of a policy (Fig. 4);
an estimated gross commission for a policy (Fig. 4); and
a reference number for a commission (Fig. 4).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. "Conseco expands web site" discloses a web site that provides insurance agents with commission information

b. "Missouri hot online market for Genelco, other insurers" discloses insurance agents checking commission information online.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:30 PM. In addition, the examiner can be reached on alternate Fridays.

Art Unit: 3626

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.

A handwritten signature in black ink, appearing to read "Alexander Kalinowski", with a stylized, flowing script.

Alexander Kalinowski

Primary Examiner

Art Unit 3626

6/21/04